

REMARKS

Claims 25-29, 31-33 and 35-41 are pending.

In the Office Action mailed January 26, 2007, the claims were rejected by the Examiner under 35 USC § 103 as being unpatentable over Ho et al. (US 6 850 981) ("Ho") in view of Suzuki (US 6 711 614). No claim was rejected for lack of novelty.

In this application, Applicant has stressed that an important feature of the claimed invention resides in the novel encoding of 802.1Q tag priority in a request to transmit a data element and using such priority to schedule transmission of the data element, which is very different than conventional encoding of 802.1Q tag priority in a data element and using such priority to prioritize the data element itself. The numerous searches performed by the Examiner in this application have revealed references (e.g. Ho, Zavalkovsky) that disclose conventional encoding and use of 802.1Q tag priority. Indeed, as Applicant will explain, the 802.1Q reference most recently discovered and relied on by the Examiner for his rejection, Suzuki, provides another example of conventional encoding and use of 802.1Q tag priority in a data element to prioritize the data element itself, notwithstanding mention of a UDP port number styled "QoS control request call" in one of its data elements. Nonetheless, to even more clearly define over the newly relied on combination of Ho and Suzuki, Applicant has amended all of the independent claims to clarify that, in the claimed invention, the request that encodes 802.1Q tag priority is of a type that reserves transmission resources for a subsequent data element and no other.

Applicant traverses the § 103 rejection based on the foregoing amendments and the following considerations.

THE COMBINATION OF HO AND SUZUKI DOES NOT TEACH OR SUGGEST A
REQUEST TO RESERVE TRANSMISSION RESOURCES FOR A SUBSEQUENT DATA
ELEMENT AND NO OTHER WHEREIN THE REQUEST INCLUDES AN 802.1 Q TAG
HAVING A TRANSMISSION PRIORITY THAT IS USED TO SCHEDULE TRANSMISSION
OF THE DATA ELEMENT

All claims recite *inter alia* wireless communication wherein a request to reserve transmission resources for a subsequent data element and no other includes an 802.1 Q tag having a priority that is used to schedule transmission of the data element.

The Examiner acknowledges that Ho does not disclose a request having an 802.1 Q tag. However, the Examiner contends that Suzuki, which is in the regime of wired communication, "discloses encoding priority in an 802.1 Q tag in a request to transmit a particular data element" (Office Action, p.6). More particularly, the Examiner contends that Suzuki discloses "encoding priority in an IEEE 802.1 Q tag of an Ethernet frame, encoding the entire Ethernet frame in the payload of a UDP packet, transmitting the UDP packet as a QoS control request call, which is a request to transmit the particular data of the Ethernet frame and no other, and using priority information from the 802.1 Q tag to control QoS as requested." (Office Action, pp. 6, 7).

Applicant respectfully submits that Suzuki does not disclose what the Examiner claims. Moreover, even if Suzuki did disclose what the Examiner claims, which is not conceded, the combination of Ho and Suzuki would still not teach or suggest what is recited in the claims as amended.

On the first point, Applicant respectfully submits that there is no disclosure in Suzuki to encode an 802.1Q tag priority in a UDP packet transmitted as a request as the Examiner suggests. The Examiner contends that Suzuki discloses encoding an entire Ethernet frame having an IEEE 802.1Q tag in the payload of a UDP packet that is transmitted as a request. However, Suzuki merely discloses copying voice data from the payload of an Ethernet frame having an IEEE 802.1Q tag into the payload of a UDP packet. There is no disclosure of copying the 802.1Q tag priority from the header of an Ethernet frame having an IEEE 802.1Q tag into the payload of a UDP packet. In particular, Suzuki states:

The transmission side node 120 ... copies voice data at a payload in an Ethernet frame with IEEE 802.1Q Tag shown in FIG. 2 to the data field (variable portion) of the UDP in the transport layer of FIG. 9, and then transmits through the IP network 1000 to the reception side first node. The reception side first node 130 transmits this received voice data to the first reception side voice terminal 132 (Suzuki, col. 7, line 61 to col. 8, line 10). (emphasis added).

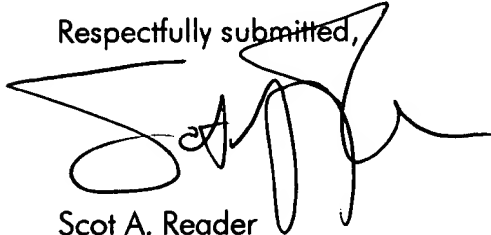
On the second point, the amended claims recite a request to reserve transmission resources for a subsequent data element and no other. According to the Examiner, Suzuki discloses "transmitting the UDP packet as a QoS control request call, which is a request to transmit the particular data of the Ethernet frame [encapsulated in the UDP packet] and no other" Accordingly, regardless of whether the Examiner or the Applicant is correct on the first point, the UDP packet disclosed in Suzuki could not serve as a reservation request respecting a subsequent data element and no other.

The obviousness rejection based on the combination of Ho and Suzuki is therefore traversed since the references, even if properly combined, do not teach what is claimed. In re Nielson, 816 F.2d 1567, 2 USPQ 2d 1525, 1528 (Fed. Cir. 1987).

Appl. No. 09/822,679
Amendment Dated April 18, 2007
Reply to Office action mailed January 26, 2007

Based on the foregoing amendments and remarks, the claims are allowable and early action to that affect is earnestly solicited. Should any question as to allowability remain in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Scot A. Reader', written over a horizontal line.

Scot A. Reader
Registration Number 39,002

Telephone No. (303) 440-4050
Scot A. Reader, P.C.
1320 Pearl Street
Suite 228
Boulder, CO 80302